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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

AHC-001

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on FEB. 21, 2007

Signature Debra M. Doherty

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Application Number

10/081,273

Filed

2/21/2002

First Named Inventor

Edward C. Carman, Jr.

Art Unit

3764

Examiner

Pham, Huong Q.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 22,958

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Arthur Z. Bookstein
Signature

Arthur Z. Bookstein

Typed or printed name

617-261-3100

Telephone number

2-21-2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Edward C. Carman, Jr. et al. CONF. NO. 9776
SERIAL NO.: 10/081,273 GROUP NO.: 3764
FILING DATE: February 21, 2002 EXAMINER: Pham, Huong Q.
TITLE: MULTIPLE USE HANDLE SUPPORT FOR DISTRIBUTING FORCES

CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8

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Debra M. Doherty

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APPLICANTS' REMARKS FOR PRE-APPEAL BRIEF CONFERENCE

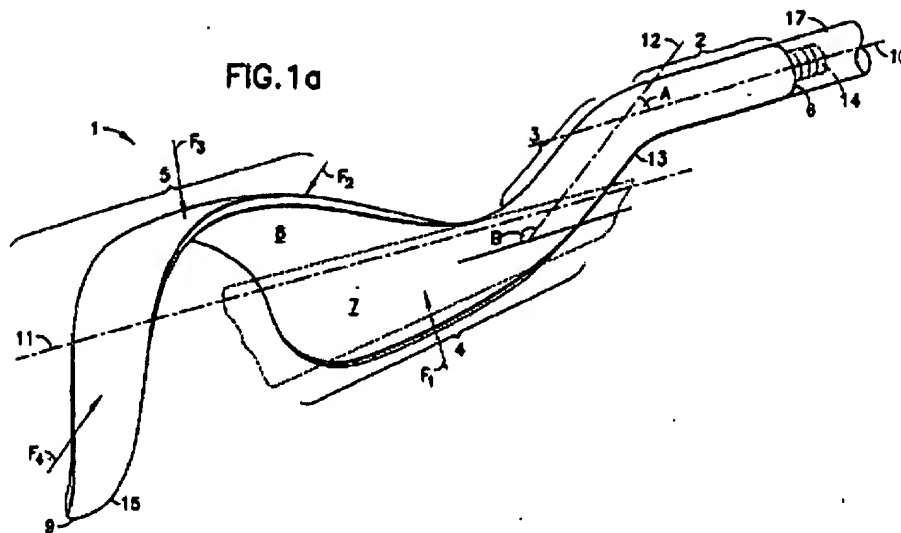
Sir:

These remarks are filed in conjunction with applicants' submission of a Request for a Pre-Appeal Brief Conference filed concurrently with a notice of appeal from the final rejection dated November 21, 2006, of all of the pending claims in this application.

All of the pending claims have been rejected finally as anticipated under 35 U.S.C. 102(b) by U.S. Patent 5,331,989 (Stephens) and under 35 U.S.C. 112.

Applicants' Invention

Applicant's invention is a handle for one-handed ergonomic manipulation of a tool that is detachably connectible to the handle. Such tools may include brushes, paint rollers, window squeegees, scrappers, spray wands, brooms, shovels, rakes and the like. (Application, ¶0002). One embodiment of the device is illustrated in FIG. 1A, reproduced below.



The device 14 includes a handle body 1 having an attachment post 2 at the forward end of the handle and a connector 14 at the forward end of the post constructed to releasably attach a tool 17. The handle may include a grip 3 fixed to the attachment post 2 to define a pistol-grip (see Apl. ¶0006) configuration. A seat portion 4 extends rearwardly from the grip 3 and is adapted to underlie the bottom of the user's wrist without restraining side-to-side flexure of the wrist when the grip is grasped. A band-like, elongate helical brace 5 extends from one side of the seat portion 4 and rearwardly in a continuous helix to surround the lower arm of the user.

Independent claim 1 is reproduced below with emphasis on those limitations in the claims that are missing from the Stephens reference.

1. A handle for one-handed ergonomic manipulation of a tool or the like, the tool being detachably connectible to the handle, comprising:
 - the handle having forward and rearward ends;
 - an attachment post at the forward end of the handle, the post having a first longitudinal axis;
 - a connector at the forward end of the post, constructed to releasably attach a tool or the like to the handle;
 - a grip fixed to the attachment post, the grip having a second longitudinal axis extending transverse to the first axis in a pistol-grip configuration;

a seat portion fixed to the grip and extending rearward therefrom to underlie the bottom of the user's wrist when the grip is grasped **without restraining side-to-side flexure of the wrist**; and

a **band-like**, elongate brace integral with and **extending from one side of the seat** portion, the brace extending rearwardly **and in a continuous helix that wraps progressively and, in cooperation with the seat portion, defines a substantially complete revolution about an open space to accommodate and surround the lower arm of the user, from the wrist to the rearward end of the device.**

Independent claim 18 is identical to claim 1 except that it omits the limitation to the seat.

Independent claim 33 is directed to a tool with a pistol grip and an attached brace, the brace being defined in the same terms as in claim 1.

U.S. Patent 5,331,989 (Stephens)

Stephens relates to a walking aid, either a cane or a crutch, having a long shaft 11 with a specially configured "foot member" 30 permanently attached to the end of the shaft by epoxy (Stephens at 7:6-12). It bears no relation to applicant's invention of a handle for one-handed, ergonomic manipulation of a detachably connectible tool. (See Applicants' Amendment mailed September 15, 2006, p. 11, last paragraph to page 12, first paragraph.)

Two embodiments are described. The first embodiment, shown in FIGS. 6 and 7 and described at 3:46-4:48, is said to include a hand grip 17 having special contours that "...[allow] the thumb bones, which are the strongest bones in the hand, to support some of the weight of the body typically borne by the wrist and fingers." (3:66-4:2). The hand grip 17 is "...is contoured to support the inner surface of the hand of the user and to distribute the pressure on the base of the hand over the widest possible area." (4:22-25). This embodiment describes, essentially, a cane with a specially contoured handgrip.

The second Stephens embodiment, referred to as a "crutch," has the shaft and handgrip of the first embodiment with an additional element, an elongated cuff 51 engageable with the lower arm. The cuff is described as having a "lower forearm support portion 53" and an "upper forearm portion 65". The upper and lower forearm portions 65, 53 are joined by a connecting portion 63. The lower forearm support portion 53 has walls that define a channel that conforms to the forearm and wrist to provide a seat and guide that supports the forearm and wrist. (4:58-62, 5:48-52).

Clear Deficiencies in the Prior Art Rejection

Stephens does not disclose an ergonomic handle having an attachment post with a connector at its forward end to releasably attach a tool. The assertion in the action that Stephens discloses "...a connector at the forward end of the post," is incorrect. There is no such connector in Stephens. The end of the crutch is merely inserted into a socket in the rubber foot 30 and is permanently attached by epoxy. The statement that the shaft "would have" such structure is pure conjecture. The rejection also appears to be based on the plainly incorrect conjecture that the Stephens "foot member 30" at the ground-engaging end of the crutch or cane "...is capable of being used as a tool".

Stephens also fails to disclose the claimed arrangement by which side-to-side flexure of the wrist is unrestrained when the grip is grasped. (See, e.g., Applicants' FIG. 2.) Stephens' cuff includes inner and outer walls 55, 57 that preclude the freedom of side-to-side flexure of the wrist as is apparent from FIG. 1 of Stephens in which the outer wall 57 can be seen as restricting side-to-side flexure of the wrist. See, also, the last paragraph of page 12 of applicants' September 15, 2006 amendment.

Stephens also fails to disclose applicants' claimed band-like, elongate brace that extends rearwardly and in a continuous helix that wraps progressively for a substantially complete revolution about the user's arm. This claimed feature of applicant's invention, and its absence from Stephens, is discussed in the September 15, 2006 amendment on page 13 in the first and second complete paragraphs. To the extent that the rejection "...relies on the teaching from the whole disclosure of the patent to Stephens, ...", such basis for an anticipation rejection is clearly deficient. To the extent that the rejection is based on an arbitrarily drawn helical line in an attachment to the previous rejection of March 17, 2006 that, too, is a clearly deficient basis for finding the claimed helical feature in Stephens. The claim refers to the helical configuration of the brace itself, not merely to a line drawn partly along an edge of the brace.

Independent claim 18 differs from claim 1 in that it omits the limitations to the seat. It is directed to an arrangement such as that illustrated in FIGS. 5A and 5B of applicants' drawings. Claim 18 includes the other limitations of claim 1, discussed above.

Claim 33 is directed to a combination of a hand tool with a pistol grip and a brace attached to the pistol grip, with the brace being defined in the same terms as in claims 1 and 18, but with the "seat" limitation omitted. That is not disclosed in Stephens.

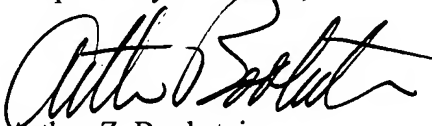
Clear Deficiencies in the 35 U.S.C. 112 Rejections

As to the rejections under 35 U.S.C. §112, "pistol grip" is a common, well-understood, dictionary term. It also appears in the application at ¶0006. See also FIG. 2. It is not new matter and the specification is enabling.

Applicants would be agreeable to removing "or the like" from the claims.

The reference to the "substantially complete revolution" of the brace is not new matter. The brace is described as "...surround[ing] the arm over the top and on at least two sides." (Apl. ¶0019). Together with the seat from which the brace extends, as claimed, the disclosed device necessarily embodies the claimed substantially complete revolution.

Respectfully submitted,



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